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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,149	02/24/2004	Mohamed Abdel Aziz Rashed	2600.2.25	8163

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/785,149

Applicant(s)

RASHED, MOHAMED ABDEL AZIZ

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/24/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10, 13, 18-25, 28-31, 33, and 34 of copending Application No. 10/517794. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are obvious variants over one another.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in

the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-9, 13-17, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Cain (US 6,367,513). Cain discloses polyolefin scrims of woven superimposed tapes. A scrim or woven polyolefin tapes comprises a plurality of warp tapes in a substantially parallel side-by-side relationship and a plurality of weft tapes in a substantially parallel side-by-side relationship. At least some of each of said warp and said weft tapes being in the form of a tape having at least one of an additional tape and a multifilament yarn superimposed thereon. Each of said tapes is a polyolefin tape (abstract). The scrims are in the form of protective covers, landfill covers, pit and pond liners, and tarpaulins (col 1, ln 8 and 36-26). The superimposed tapes are in the form of two or three or more superimposed tapes (col 3, ln 17-19). The polyolefin tapes may be formed from polyethylene or polypropylene and further contain UV stabilizers and pigments (col 3, ln 60-64).
5. Claims 1-9 and 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Qureshi et al. (US 2005/0164576). Qureshi et al. disclose a flame retardant barrier facing comprising a backing that is a woven substrate woven from HDPE tapes (abstract). The plurality of warp tapes interwoven with a plurality of weft tapes are both in side-by-side, substantially parallel relationships [0032]. The tapes can be polypropylene or high density polyethylene [0037]. The woven substrate may be woven of two tapes, superimposed one upon the other [0039]. Pigments and UV resistant and flame retardant additives may be incorporated [0044].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain (US 6,367,513), as set forth above. Cain discloses the claimed invention except for the teaching that the tapes have a width in the range of 1-10 mm, a thickness in the range of 0.02-0.1 mm, and a weight in the range of 500-3000 dtex.

It should be noted that tape width, tape thickness, and tape weight are all result effective variables. For example, the width of the tape directly affects the strength of the tape. The thickness of the tape directly affects the durability of the tape. Therefore, it would have been obvious to one having ordinary skill in the art to have used a tape having a width of 1-10 mm, a thickness in the range of 0.02-0.1 mm, and a weight in the range of 500-3000 dtex, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized these parameters, motivated by the desire to create a tape that has increased strength and durability.

8. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Qureshi et al. (US 2005/0164576), as shown above. Qureshi et al. disclose the claimed invention except for

the teaching that the tapes have a width in the range of 1-10 mm, a thickness in the range of 0.02-0.1 mm, and a weight in the range of 500-3000 dtex.

It should be noted that tape width, tape thickness, and tape weight are all result effective variables. For example, the width of the tape directly affects the strength of the tape. The thickness of the tape directly affects the durability of the tape. Therefore, it would have been obvious to one having ordinary skill in the art to have used a tape having a width of 1-10 mm, a thickness in the range of 0.02-0.1 mm, and a weight in the range of 500-3000 dtex, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized these parameters, motivated by the desire to create a tape that has increased strength and durability.

9. Claims 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Qureshi et al. (US 2005/0164576) in view of Romanowski (US 5,811,359). Qureshi et al. disclose the claimed invention except for the teaching that a thermoplastic film is attached to the fabric.

Romanowski (US 5,811,359) disclose a fire-retardant barrier structure. The structure includes a woven substrate that is a scrim woven from a high density polyethylene material (col 7, In 10-13). The fabric substrate can also be a woven scrim of tapes of HDPE (col 16, In 55-59A barrier layer is a film layer (col 5, In 55) that includes polyethylene or polypropylene (col 6, In 20-21). The film includes slip additives for processing the barrier film and to get the desired physical properties (col 5, In 20-23). The film also includes UV stabilizers, pigments and fire-retardant material (col 7, In 16 and 56-58). It would have been obvious to one having ordinary skill in the art

to have used Romanowski's film material on the facing of Qureshi et al, motivated by the desire to create a facing that has enhanced fire resistance and waterproof properties.

10. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Qureshi et al. (US 2005/0164576) in view of Pattenden (US 4,239,831). Qureshi et al. disclose the claimed invention except for the teaching that the scrim is laminated to a metallized film.

Pattenden (US 4,239,831) disclose a wrapping material comprising a woven polyolefin tape structure coated with a metallic coating (abstract). It would have been obvious to have used Pattenden's metallic coating on Qureshi's facing, motivated by the desire to create a facing material that is protected from water staining, mildew, and warping.

11. Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Qureshi et al. (US 2005/0164576) in view of Baciú et al. (US 2004/0192130) and Katz (US 5,843,554). Qureshi et al. disclose the claimed invention except for the teaching that a water-absorbent material such as paper or non-woven fibers is laminated to the facing.

Baciú et al. (US 2004/0192130) disclose a sheet material with anti-slip surface for use as a wrapping material discloses a scrim made of woven polymer resin tapes [0020] laminated to a paper layer [0029]. Katz (US 5,843,554) disclose multi-layer covering articles comprising a woven scrim made of tapes (col 3, ln 64-66) laminated to a base layer of a non-woven synthetic material (col 3, ln 38). It would have been obvious to one having ordinary skill in the art to have used Baciú's paper layer or Katz' nonwoven synthetic material on Qureshi's facing material, motivated by the desire to create a facing material that has enhanced barrier properties.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR *UCR*

Ula Ruddock
Ula C. Ruddock
Primary Examiner
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